

*Bills of Exchange Act and the Interest Act*

that there was a need for a broad type of cooling off period to help citizens of that country.

Although I have been talking about developments in Great Britain and the United States it should not be taken to mean that the problem has not been dealt with in Canada as well. Since the passage of the first consumer protection bill in Nova Scotia in 1967, there has been a general adoption of similar legislation in all but one of the Canadian provinces. The province of Quebec has not yet passed its consumer protection act; it is currently before the committee of the Quebec Assembly and is known as Bill 45.

It is provided in all the provincial legislation of this type that doorstep contracts can be cancelled within a specific period. The period is not uniform in all provinces. Ontario provides two days while British Columbia provides three days. The three prairie provinces specify four days. Quebec, New Brunswick and Nova Scotia specify a five-day period, while Prince Edward Island allows seven days and Newfoundland ten days. These longer periods are a recognition of the fact that some people in the Atlantic provinces may be away from home for a longer period. There is, therefore, some extension of what is known as the "decompression period", a phrase used to describe the period after the signing of the contract when the intensity of the consumer's desire drops rapidly. This is sometimes a period for hand-wringing and sober second thought.

It is undoubtedly true that high-pressure selling techniques are used in stores as well as in the home, and there may well be many occasions when individuals find they have been mesmerized into concluding a contractual arrangement which they subsequently realized was unwise. The legislation which has been passed in this field in other countries and in the various provinces does make a distinction between these two methods of doing business. It is evidently the view that the need for protection is not as great in the case of persons who go to stores or visit showrooms because their interest in the articles on display is self-inspired.

It should also be pointed out that nearly all the provinces provide additional protection against unscrupulous, itinerant sellers apart from the cooling off period. It is generally the case in the Canadian provinces that door to door salesmen are required to be licensed by provincial bodies. In some cases there are also bonding requirements. This means that any sellers who generate complaints from consumers render themselves liable to investigation by the provincial authorities. This could in some cases lead to the cancellation of their licences.

Since door to door selling usually falls under the law of contracts it is primarily a matter under the jurisdiction of the provinces. It should be emphasized, however, that the federal government has taken definitive steps to eliminate certain types of abuses in this general field. There was a path-breaking amendment to the Bills of Exchange Act which became law on November 1, 1970, which changes the law governing promissory notes used in consumer purchases in a way which protects consumers generally. The amendment, of course, applies to any

promissory note or similar instrument that is used in a consumer credit transaction.

The amendment is designed to stop abuses of promissory notes by unscrupulous or irresponsible sellers. Consumers who buy on credit often sign promissory notes attached to sales contracts without understanding that the promissory note will be sold to a third party such as a sales finance company. In most cases a third party holder of a promissory note can legally enforce payment of the note even if the seller of the goods does not live up to his part of the contract. This can lead to severe injustice when a seller has gone bankrupt, skipped out, broken a warranty or service agreement or has otherwise failed to perform his part of the contract. It has been possible for the so-called "holder in due course" of a promissory note to insist on payment when the goods bought by the consumer were not even delivered.

The amendment has two main provisions. The first is that all promissory notes given by consumers under sales contracts must be marked "consumer purchase" on their face. The second is that consumers will for the first time be able to offer as a defence, in case of suit for non-payment, the fact that the original seller did not fulfil his part of the bargain. This means that sales finance companies and others buying promissory notes will have to be careful that the sellers they buy them from are not engaged in any fraudulent or shady activity. The new rules will also apply to cheques which are postdated more than 30 days. This has been done to prevent any evasion of the intent of the amendment by substituting postdated cheques or other types of bills of exchange for promissory notes.

Promissory notes were originally used in transactions between merchants or businessmen who understood fully the nature of promissory notes. In more recent years, the widespread use of such notes in consumer credit sales has meant that often they have been signed by people who have not realized their unconditional obligation to pay. Fast talking and fly-by-night operators, interested in getting the signature of the consumer, neglect to explain the "holder in due course" aspect of the Bills of Exchange Act.

The change in the law follows recommendations made by the Special Joint Committee of the Senate and House of Commons on Consumer Credit, the Consumers' Association of Canada, the Canadian Consumer Council, provincial authorities responsible for consumer credit legislation and various experts on consumer law. It is a sad fact that legislation is not the sole answer to the kind of problem we are dealing with. It is also essential for individual consumers to behave in a prudent fashion. There are myriad warnings about the pitfalls of signing contracts with charming but unknown peddlers. The skill of certain salesmen in persuading people to sign documents is remarkable, and the point must be hammered home that care and time should be taken before a major purchase is made. It is often quite easy to make inquiries through friends, relatives, lawyers or others concerning the credentials of the sellers and the quality of their products.

[Mr. Penner.]